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APPLICATION NO.	FIL	ING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,951	96,951 03/10/2004		Timothy G. Swales	7352	4490
7	590	03/23/2006		EXAM	INER
JOHNS MAN	VILLE		KILIMAN, LESZEK B		
Legal Departm	ent				
10100 West Ute Avenue				ART UNIT	PAPER NUMBER
Littleton, CO 80127				1773	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
Office Action Summary	10/796,951	SWALES ET AL.					
Office Action Summary.	Examiner	Art Unit					
The MAN INC DATE of this communication	leszek b. kiliman	1773					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1) Responsive to communication(s) filed on _	 .						
1	his action is non-final.						
	ince this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice unde	er <i>Ex par</i> te Quayle, 1935 C.D. 11, 45	53 O.G. 213.					
Disposition of Claims							
4)⊠ Claim(s) <u>1-18</u> is/are pending in the applicati	on.						
4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6)⊠ Claim(s) <u>1-12 and 15-18</u> is/are rejected.							
7) Claim(s) is/are objected to.							
8) Claim(s) are subject to restriction and/or election requirement.							
Application Papers							
9) The specification is objected to by the Examiner.							
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
a) All b) Some * c) None of:							
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents have been received in Application No							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.							
Attachment(s)							
1) Notice of References Cited (PTO-892)	4) Interview Summary	(PTO-413)					
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/ 	Paper No(s)/Mail Da	ate atent Application (PTO-152)					
Paper No(s)/Mail Date	6) Other:						
U.S. Patent and Trademark Office PTOL-326 (Rev. 7-05) Office	Action Summary	Part of Paper No./Mail Date 10					

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DETAILED ACTION

Claim Rejections - 35 USC § 103

- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. Claims 1-12 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Be'607 in view of Jaffiee'697.

The applied Be'607 teaches that it is known in the art to make and use gypsum board comprising glass fibers and silane based sizing composition. See column 1, lines 25-37, column 2, lines 10-30, column 4, lines 19-50. The applied Be'607 does not specifically teach that particles may be a part of such composition. The applied Jafiee'697 teaches that it is known in the art to include particles in process of treating glass fibers prior to use in gypsum boards. See column 1, lines 5-25, column 2, lines 20-30, column 2, lines 60-67, column 5, lines 5-67, column 6, lines 1-5. It would have been obvious to one having ordinary skill in the art to add particles to Be'607 composition as suggested by Jafiee'697 since such would improve processability and mechanical properties of the gypsum board. Also, it would have been obvious to select particle

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type for use in such composition since such would optimize water repellent properties of the board.

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The amendments and remarks filed by applicants in December 21, 2005 have been fully considered. The claims, however, remain unpatentable in view of the above grounds of rejections. The examiner believes that the rejections are still proper and are maintained.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to leszek b. kiliman whose telephone number is 571-272-1509. The examiner can normally be reached on M-T, 6.30-5.00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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